#### [No. 136]

#### (SB 675)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 12, 16k, 17, 31, 32, and 49 of chapter XVII (MCL 777.12, 777.16k, 777.17, 777.31, 777.32, and 777.49), section 12 as amended by 2001 PA 104, section 16k as amended by 2000 PA 279, section 17 as amended by 2000 PA 300, section 31 as amended by 1999 PA 227, and sections 32 and 49 as added by 1998 PA 317.

The People of the State of Michigan enact:

#### CHAPTER XVII

## 777.12 Chapters 200 to 299 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 12. This chapter applies to the following felonies enumerated in chapters 200 to 299 of the Michigan Compiled Laws:

Category	Class	Description	Stat Max
Pub trst	G	Failure to file or false tax return	
		or payment	5
Pub trst	G	Aiding and abetting tax evasion	
		or filing false returns	5
Pub trst	G	Making/permitting false tax	
		returns or payments	5
Pub trst	G	False tax returns/perjury	15
Pub trst	G	State employee compromising taxes	5
Pub trst	G	Unauthorized disclosure of tax	
		information	5
Pub trst	G	Tobacco products tax act violations	5
	Pub trst	Pub trst G	Pub trst G Failure to file or false tax return or payment  Pub trst G Aiding and abetting tax evasion or filing false returns  Pub trst G Making/permitting false tax returns or payments  Pub trst G False tax returns/perjury  Pub trst G State employee compromising taxes  Pub trst G Unauthorized disclosure of tax information

205.428(3)	Pub trst	G	Illegal sale of cigarettes or other tobacco products with wholesale	_
205.428(6)	Pub trst	F	price of \$250.00 or more  Illegal tobacco stamp or tobacco stamp device	5 10
205.428(7)	Pub trst	G	Illegal vending machine license, disk, or marker	5
207.118a	Pub ord	G	Gasoline tax—embezzlement over \$100	10
207.119	Pub trst	G	Gasoline or motor fuel tax violation	4
207.127e	Pub ord	G	Diesel fuel tax—embezzlement over \$100	10
207.754(3)	Pub trst	G	State treasurer—municipality tax—divulging confidential information	5
252.311	Property	Н	Destroying a tree or shrub to make a sign more visible	2
257.233a(7)	Pub ord	G	Odometer tampering	5
257.254	Property	Ĕ	Possessing stolen vehicle title	10
257.257(1)	Property	G	Altering or forging vehicle documents—first offense	5
257.257(2)	Property	G	Altering or forging vehicle documents—second offense	7
257.257(3)	Property	Е	Altering or forging vehicle documents—third or	
			subsequent offense	15
257.309(6)	Pub ord	$\mathbf{F}$	Corrupting an examining officer	5
257.309(7)	Pub ord	$\mathbf{F}$	Deviating from road test criteria	5
257.309(8)	Pub ord	F	Forging, counterfeiting, or altering road test certification	5
257.312b(6)	Pub ord	F	Corrupting a person or agency conducting a motorcycle driving test	5
257.312b(7)	Pub ord	F	Deviating from motorcycle road test criteria	5
257.312b(8)	Pub ord	F	Forging, counterfeiting, or altering motorcycle road test certification	5
257.329(1)	Property	G	Possession/sale of stolen or counterfeit insurance certificates	5
257.329(2)	Property	Е	Possession/sale of stolen or counterfeit insurance certificates—second offense	7
257.329(3)	Property	E	Possession/sale of stolen or counterfeit insurance certificates— third or subsequent offense	15
257.601b(3)	Person	C	Moving violation causing death to construction worker	15
257.601c(2)	Person	С	Moving violation causing death to operator of implement of	
OFF 400 (2)	D 1	~	husbandry	15
257.602a(2)	Pub saf	G	Fleeing and eluding—fourth degree	2

257.602a(3)	Pub saf	Е	Fleeing and eluding—third degree	5
257.602a(4)	Person	D	Fleeing and eluding—second degree	10
257.602a(5)	Person	$^{\mathrm{C}}$	Fleeing and eluding—first degree	15
257.617	Person	E	Failure to stop at scene of a serious personal injury accident	5
257.625(4)(a)	Person	С	Operating a vehicle under the influence or while impaired	-
			causing death	15
257.625(4)(b)	Person	В	Operating a vehicle under the influence or while impaired causing death to certain persons	20
257.625(5)	Person	E	Operating a vehicle under the influence or while impaired	F
OFF 60F(F)( )(!)	т.		causing serious impairment	5
257.625(7)(a)(ii)	Person	Е	Operating a vehicle under the influence or while impaired with a minor in the vehicle—	
				F
OFF (OF(O)(-)	Dl ¢	173	subsequent offense	5
257.625(8)(c)	Pub saf	$\mathbf{E}$	Operating a vehicle under the	
			influence—third or subsequent	-
0FF C0F(0)/l-)	D	173	offense	5
257.625(9)(b)	Person	$\mathbf{E}$	Allowing a vehicle to be operated	
			while under the influence or	-
057 (05(0)/-)	D	C	impaired causing death	5
257.625(9)(c)	Person	G	Allowing a vehicle to be operated	
			while under the influence or	
			impaired causing serious	9
055 (05(10)(-)	Dl ¢	173	impairment	2
257.625(10)(c)	Pub saf	$\mathbf{E}$	Impaired driving—third or	5
OFF COF1-(F)	D1 £	D	subsequent offense	Э
257.625k(7)	Pub saf	D	Knowingly providing false	
			information concerning an	10
OFF COF1 (0)	D 1 C	D	ignition interlock device	10
257.625k(9)	Pub saf	D	Failure to report illegal ignition interlock device	10
0FF (0F (F)	D.I. C	173		10
257.625m(5)	Pub saf	$\mathbf{E}$	Commercial drunk driving—third	-
0FF 606	D	0	or subsequent offense	5
257.626c	Person	G	Felonious driving	2
257.653a(3)	Person	G	Failure to use due care and caution causing injury to	
			emergency personnel	2
257.653a(4)	Person	С	Failure to use due care and caution causing death to emergency	15
	<b>5.1.</b> 4	-	personnel	15
257.744a	Pub saf	D	False statement in citation—perjury	15
257.902	Pub saf	E	Motor vehicle code violations	5
257.903(1)	Property	${f E}$	Motor vehicle code—false	_
	_	_	certification—first offense	5
257.903(2)	Property	$\mathbf{E}$	Motor vehicle code—false	
			certification—second offense	7

257.903(3)	Property	D	Motor vehicle code—false certification—third or	
257.904(4)	Person	$\mathbf{C}$	subsequent offense Operating a vehicle without a	15
			license causing death	15
257.904(5)	Person	E	Operating a vehicle without a license causing serious impairment	5
257.904(7)	Person	G	Allowing a vehicle to be operated without a license causing serious	
	Person	E	impairment Allowing a vehicle to be operated	2
257.1353(2)	Pub trst	Н	without a license causing death Motor vehicle—fail to record material matter—subsequent	5
957 1954(9)	Pub trst	Н	offense Motor vehicle—general	2
257.1354(2) 257.1355	Pub trst	Н	violations—subsequent offense Motor vehicle—fail to record	2
201.1000	1 ub tist	11	transaction/falsify records	2
259.183	Property	E	Aircraft—unlawful taking or	-
259.185(4)	Person	$\mathbf{C}$	tampering Operating or serving as crew of	5
2001200(1)	1 010011	Ü	aircraft while under the influence	
0F0 40F(F)	ъ		causing death	15
259.185(5)	Person	Е	Operating or serving as crew of aircraft while under the influence causing serious impairment	5
259.185(8)	Pub saf	E	Operating or serving as crew of aircraft while under the influence—third or	
285.82	Pub trst	Н	subsequent offense Grain dealers act violations	5 5
285.279(c)	Property	E	False pretenses under Michigan	9
200.210(0)	Troperty	ь	family farm development act involving \$1,000 to \$20,000 or	
			with prior convictions	5
285.279(d)	Property	D	False pretenses under Michigan family farm development act involving \$20,000 or more or with	
			prior convictions	10
286.455(2)	Pub saf	G	Agriculture—hazardous substance	5
286.929(4)	Pub trst	G	Organic products act violations	4
287.323(1)	Person	C G	Dangerous animal causing death	15
287.323(2)	Person	G	Dangerous animal causing serious injury	4
287.679	Pub ord	Н	Dead animals—third or subsequent violation	1
287.744(1)	Pub ord	G	Animal industry act violations	5
287.855	Pub saf	G	Agriculture—contaminating livestock/ false statement/violation of	
			quarantine	5
287.967(5)	Pub ord	G	Cervidae producer violations	4

288.223	Pub saf	G	Sale or labeling of oleomargarine	
			violations	3
288.257	Pub saf	G	Margarine violations	3
288.284	Pub trst	$_{\mathrm{H}}$	Selling falsely branded cheese	2
289.5107(2)	Pub saf	$\mathbf{F}$	Adulterated, misbranded, or	
			falsely identified food	4
290.629(1)	Person	G	Weights and measures—assaults	
			enforcement officer	2
290.631(3)	Pub trst	G	Weights and measures	5
290.650	Person	G	Motor fuels—assaulting/obstructing	
			director or authorized	
			representative	2
290.650b(3)	Pub trst	Η	Motor fuels violations	2

## 777.16k §§ 750.200 to 750.211a; felonies to which chapter applicable.

Sec. 16k. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.200	Pub saf	E	Transporting an explosive by common carrier	5
750.200i(2)(a)	Pub saf	С	Manufacturing or using a harmful device	15
750.200i(2)(b)	Property	В	Harmful device causing property damage	20
750.200i(2)(c)	Person	A	Harmful device causing personal injury	25
750.200i(2)(d)	Person	A	Harmful device causing serious impairment	Life
750.200j(2)(a)	Person	$\mathbf{E}$	Irritant or irritant device	5
750.200j(2)(b)	Property	E	Irritant or irritant device causing property damage	7
750.200j(2)(c)	Person	D	Irritant or irritant device causing personal injury	10
750.200j(2)(d)	Person	A	Irritant or irritant device causing serious impairment	25
750.200j(2)(e)	Person	A	Irritant or irritant device causing death	Life
750.200l	Person	E	Falsely exposing person to harmful substance or device	5
750.201	Pub saf	E	Transporting certain types of explosives	5
750.202	Pub saf	F	Shipping an explosive with false markings or invoice	4
750.204(2)(a)	Pub saf	С	Sending an explosive with malicious intent	15
750.204(2)(b)	Property	В	Sending an explosive causing property damage	20
750.204(2)(c)	Person	A	Sending an explosive causing physical injury	25

750,204(2)(d)	Person	A	Sending an explosive causing serious impairment	Life
750.204a	Pub saf	E	Sending or transporting an imitation explosive device with malicious intent	5
750.207(2)(a)	Pub saf	C	Placing an explosive with malicious intent	15
750.207(2)(b)	Property	В	Placing an explosive causing property damage	20
750.207(2)(c)	Person	A	Placing an explosive causing physical injury	25
750.207(2)(d)	Person	A	Placing an explosive causing serious impairment	Life
750.209(1)(a)	Pub saf	С	Placing an offensive or injurious substance with intent to injure	15
750.209(1)(b)	Property	В	Placing an offensive or injurious substance causing property damage	20
750.209(1)(c)	Person	A	Placing an offensive or injurious substance causing physical injury	25
750.209(1)(d)	Person	A	Placing an offensive or injurious substance causing serious impairment	Life
750.209(2)	Pub saf	E	Placing an offensive or injurious substance with intent to alarm or annoy	5
750.209a	Pub saf	D	Possessing an explosive device in public place	10
750.210(2)(a)	Pub saf	С	Possessing or carrying an explosive or combustible substance with malicious intent	15
750.210(2)(b)	Property	В	Possessing or carrying an explosive or combustible substance causing	20
750.210(2)(c)	Person	A	property damage Possessing or carrying an explosive or combustible substance causing physical injury	25
750.210(2)(d)	Person	A	Possessing or carrying an explosive or combustible substance causing serious impairment	Life
750.210a	Pub saf	Н	Sale of valerium	5
750.211a(2)(a)	Pub saf	С	Manufacturing or possessing an explosive or incendiary device with malicious intent	15
750.211a(2)(b)	Property	В	Manufacturing or possessing an explosive or incendiary device causing property damage	20
750.211a(2)(c)	Person	A	Manufacturing or possessing an explosive or incendiary device causing physical injury	25

750.211a(2)(d)	Person	A	Manufacturing or possessing an explosive or incendiary device	
			causing serious impairment	Life
750.212a	Person	В	Explosives violation involving a	
			vulnerable target causing death	
			or injury	20

# 777.17 §§ 752.272a(2)(c) to 801.263; felonies to which chapter applicable.

Sec. 17. (1) This chapter applies to the following felonies enumerated in chapters 751 to 830 of the Michigan Compiled Laws:

M.C.L. Category	Class	Description	Stat Max
752.272a(2)(c) Pub saf	$\mathbf{F}$	Sale or distribution of nitrous oxide	4
752.365(3) Pub ord	G	device—2 or more prior conviction	$egin{array}{cccccccccccccccccccccccccccccccccccc$
752.365(3) Pub ord 752.541 Pub saf	G D	Obscenity—subsequent offense Riot	10
752.541 Fub saf	D D	Incitement to riot	10
752.542 Fub saf	D	Riot in state correctional facilities	10
752.543 Pub saf	G	Unlawful assembly	5
	E	Computer fraud—2 prior convictions	-
752.797(1)(c) Property	Ŀ	or value of \$1,000 to \$20,000	5
752.797(1)(d) Property	D	Computer fraud—3 or more prior convictions or value of \$20,000 or	
	_	more	10
752.797(2)(a) Property	$\mathbf{E}$	Unlawfully accessing computer, computer system, or computer	
		program	5
752.797(2)(b) Property	D	Unlawfully accessing computer,	9
110pereg	-	computer system, or computer	
		program, with prior conviction	10
752.797(3)(b) Variable	G	Using computer to commit crime punishable by a maximum term of imprisonment of more than 1 year	
		but less than 2 years	2
752.797(3)(c) Variable	F	Using computer to commit crime punishable by a maximum term of imprisonment of at least 2 years but less than 4 years	4
752.797(3)(d) Variable	D	Using computer to commit crime punishable by a maximum term of imprisonment of at least 4 years	4
		but less than 10 years	7
752.797(3)(e) Variable	D	Using computer to commit crime punishable by a maximum term of imprisonment of at least 10 years but less than 20 years	10
752.797(3)(f) Variable	В	Using computer to commit crime punishable by a maximum term of imprisonment of at least 20 years	
		or for life	20

752.802	Property	Н	Vending machines—manufacture/sale	5
752.811	Property	Н	of slugs Breaking and entering a coin	Э
192.011	Troperty	11	operated device	3
752.861	Person	G	Careless discharge of firearm	9
	1 012011	ŭ.	causing injury or death	2
752.881	Person	G	Reckless use of bow and arrow	
			resulting in injury or death	2
752.1003	Property	$\mathbf{F}$	Health care fraud—false claim/state,	
			unnecessary, conceal information	4
752.1004	Property	$\mathbf{F}$	Health care fraud—kickbacks/	
			referral fees	4
752.1005	Property	Η	Health care fraud—conspiracy	10
752.1006	Property	D	Health care fraud—subsequent	
			offense	20
752.1054(2)	Property	G	Copying audio/video recordings for	
			gain	5
764.1e	Pub trst	С	Peace officer—false statement in	
		_	a complaint	15
767.4a	Pub trst	$\mathbf{F}$	Disclosing or possessing grand	4
<b>505</b> 0(1)( )	D 1 4 4	a	jury information	4
767a.9(1)(a)	Pub trst	$\mathbf{C}$	Perjury committed in prosecutor's	
			investigative hearing—noncapital crime	15
767a.9(1)(b)	Pub trst	В	Perjury committed in prosecutor's	19
101a.3(1)(b)	1 ub tist	Б	investigative hearing—capital	
			crime	Life
800.281(1)	Pub saf	Н	Furnishing prisoner with	Line
000.201(1)	1 40 541		contraband	5
800.281(2)	Pub saf	Н	Furnishing prisoner with	
			contraband outside	5
800,281(3)	Pub saf	H	Bringing contraband into prisons	5
800.281(4)	Pub saf	$\mathbf{E}$	Prisoner possessing contraband	5
800.283(1)	Pub saf	$\mathbf{E}$	Furnishing weapon to prisoner in	
			prison	5
800.283(2)	Pub saf	$\mathbf{E}$	Prisons—knowledge of a weapon in a	
			correctional facility	5
800.283(3)	Pub saf	$\mathbf{E}$	Bringing weapon into prison	5
800,283(4)	Pub saf	$\mathbf{E}$	Prisoner possessing weapon	5
801.262(1)(a)	Pub saf	$\mathbf{E}$	Bringing weapon into jail	5
801.262(1)(b)	Pub saf	E	Furnishing weapon to prisoner in jail	5
801.262(2)	Pub saf	$\mathbf{E}$	Prisoner in jail possessing weapon	5
801.263(1)	Pub saf	Н	Furnishing contraband to prisoner	
• •			in jail	5
801.263(2)	Pub saf	Н	Prisoner in jail possessing contraband	5

<sup>(2)</sup> For a violation of section 797(3) of 1979 PA 53, MCL 752.797, determine the offense category, offense variable level, and prior record variable level based on the underlying offense.

### 777.31 Aggravated use of weapon.

Sec. 31. (1) Offense variable 1 is aggravated use of a weapon. Score offense variable 1 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (b) A firearm was pointed at or toward a victim or the victim had a reasonable apprehension of an immediate battery when threatened with a knife or other cutting or stabbing weapon .......
  - (c) The victim was touched by any other type of weapon...... 10 points

15 points

- (2) All of the following apply to scoring offense variable 1:
- (a) Count each person who was placed in danger of injury or loss of life as a victim.
- (b) In multiple offender cases, if 1 offender is assessed points for the presence or use of a weapon, all offenders shall be assessed the same number of points.
  - (c) Score 5 points if an offender used an object to suggest the presence of a weapon.
- (d) Score 5 points if the offender used a chemical irritant, chemical irritant device, smoke device, or imitation harmful substance or device.
- (e) Do not score 5 points if the conviction offense is a violation of section 82 or 529 of the Michigan penal code, 1931 PA 328, MCL 750.82 and 750.529.
- (3) As used in this section, "chemical irritant", "chemical irritant device", and "imitation harmful substance or device" mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

#### 777.32 Lethal potential of weapon possessed or used.

Sec. 32. (1) Offense variable 2 is lethal potential of the weapon possessed or used. Score offense variable 2 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- - (e) The offender possessed or used any other potentially lethal weapon ..... 1 point
  - (f) The offender possessed or used no weapon ...... 0 points
- (2) In multiple offender cases, if 1 offender is assessed points for possessing a weapon, all offenders shall be assessed the same number of points.
  - (3) As used in this section:
- (a) "Harmful biological substance", "harmful biological device", "harmful chemical substance", "harmful chemical device", "harmful radioactive material", and "harmful

radioactive device" mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

- (b) "Fully automatic weapon" means a firearm employing gas pressure or force of recoil or other means to eject an empty cartridge from the firearm after a shot, and to load and fire the next cartridge from the magazine, without renewed pressure on the trigger for each successive shot.
- (c) "Pistol", "rifle", or "shotgun" includes a revolver, semi-automatic pistol, rifle, shotgun, combination rifle and shotgun, or other firearm manufactured in or after 1898 that fires fixed ammunition, but does not include a fully automatic weapon or short-barreled shotgun or short-barreled rifle.
- (d) "Incendiary device" includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

## 777.49 Security threat to penal institution or court or interference with administration of justice.

Sec. 49. Offense variable 19 is threat to the security of a penal institution or court or interference with the administration of justice. Score offense variable 19 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender by his or her conduct threatened the security constitution or court	1	25 points
(b) The offender used force or the threat of force against another or the property of another person to interfere with, attempt to with, or that results in the interference with the administration of j	interfere justice or	
the rendering of emergency services		15 points
(c) The offender otherwise interfered with or attempted to with the administration of justice		10 points
(d) The offender did not threaten the security of a penal insticulation court or interfere with or attempt to interfere with the administ		

### Effective date of §§ 777.12 and 777.17.

Enacting section 1. Sections 12 and 17 of chapter XVII of 1927 PA 175, as amended by this amendatory act, take effect February 1, 2002.

0 points

#### Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

- (a) Senate Bill No. 497.
- (b) House Bill No. 4813.

This act is ordered to take immediate effect.

Approved October 23, 2001.

Filed with Secretary of State October 23, 2001.

Compiler's note: Senate Bill No. 497, referred to in enacting section 2, was filed with the Secretary of State October 23, 2001, and became P.A. 2001, No. 135, Imd. Eff. Oct. 23, 2001.

House Bill No. 4813, also referred to in enacting section 2, was filed with the Secretary of State October 23, 2001, and became P.A. 2001, No. 134, Eff. Feb. 1, 2002.